

OCT 14 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TREVOR MOSS,

Plaintiff - Appellant,

v.

TIBERON MINERALS LTD.,

Defendant - Appellee.

No. 08-15875

DC No. CV 07-2732 SC

MEMORANDUM *

Appeal from the United States District Court
for the Northern District of California
Samuel Conti, District Judge, Presiding

Argued and Submitted October 8, 2009
San Francisco, California

Before: RYMER and TASHIMA, Circuit Judges, and LEIGHTON** District
Judge.

Trevor Moss appeals the district court's dismissal on *forum non conveniens*
grounds of his claims against Tiberon Minerals, Ltd., for breach of written

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The Honorable Ronald B. Leighton, United States District Judge,
Western District of Washington, sitting by designation.

agreements and violations of California Labor Code § 200 *et. seq.* We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

We review a district court's decision to dismiss an action on *forum non conveniens* grounds for "clear abuse of discretion." *Creative Tech., Ltd. v. Aztech Sys. Pte., Ltd.*, 61 F.3d 696, 699 (9th Cir. 1995) ("[W]here the [district] court has considered all relevant public and private interest factors, and where its balancing of these factors is reasonable, its decision deserves substantial deference." (internal quotation marks and citations omitted)).

The district court properly found that Ontario, Canada, was an adequate alternative forum. *See Contact Lumber Co. v. P.T. Moges Shipping Co.*, 918 F.2d 1446, 1450 (9th Cir. 1990) (holding the adequacy of the alternative forum is generally satisfied if the court makes dismissal conditional on the defendant's agreement to submit to the jurisdiction of the alternative forum and waive any statute of limitations defenses). The district court also properly considered all relevant public and private interest factors. We cannot say that the district court abused its discretion, especially in light of the Ontario choice-of-law provision to which the parties agreed in the contracts at issue.

AFFIRMED.